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12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14

15 AMERICAN CIVIL LIBERTIES
16 UNION FOUNDATION OF
SOUTHERN CALIFORNIA,

17 Plaintiff,

18 v.

19 UNITED STATES IMMIGRATION
20 AND CUSTOMS ENFORCEMENT, et
al.,

21 Defendants.
22

No. 2:22-cv-04760-SHK

**DEFENDANT U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT'S
RESPONSE TO PLAINTIFF'S
SEPARATE STATEMENT OF
UNCONTROVERTED FACTS**

Honorable Shashi H. Kewalramani
United States Magistrate Judge

Pursuant to Local Rule 56-3, Defendant ICE's submits this Response to Plaintiff's Statement of Uncontroverted Facts [Dkt. 112-1].

No.	PLAINTIFF'S UNDISPUTED FACT & SUPPORTING EVIDENCE	REPLY
1.	<p>Plaintiff submitted its FOIA request ("Request") to Defendant ICE on April 29, 2022, seeking information about ICE's practice of deathbed releases of immigration detainees.</p> <p>Evidence: ECF No. 1-1 (FOIA Request)</p>	<p>Undisputed that the Request is dated April 29, 2022. Disputed that it was submitted on the same date.</p> <p>Evidence: Declaration of Fernando Pineiro, ¶ 4.</p>
2.	<p>In a March 4, 2021 email, ICE's Field Operations Division directed the "LOS" Field Office "to begin the necessary paperwork for a death notification in the event of [Mr. Vargas's] demise."</p> <p>Evidence: Email chain dated Mar. 4, 2021, Ex. V, Cho Decl. at Bates 13390.</p>	<p>Undisputed but immaterial.</p>
3.	<p>The Department of Homeland Security Office of Civil Rights and Civil Liberties (CRCL) issued a memorandum to 13 named ICE staff related to an investigation it had conducted at the Adelanto ICE Processing Center including into a complaint regarding ICE's release of Mr. Vargas Arellano, requesting: "ICE provide a response to CRCL 60 days whether it concur or non-concur with these recommendations. If ICE concurs, please include an action plan."</p> <p>Evidence: Memorandum from Dana Salvano-Dunn, Ex. W, Cho Decl. at 1, 8–10.</p>	<p>Undisputed but immaterial.</p>
4.	<p>According to ICE ERO Directive No. 11853.3, <i>Significant Detainee Illness</i> (SDI Directive), ICE maintains an "SDI list" that includes cases of detainees where there is "significant coordination required to repatriate or to release a detainee/resident in the United States due to their medical condition."</p>	<p>Undisputed but immaterial.</p>

	Evidence: Exhibit A to Pl.’s Jun. 26, 2023 Letter, ICE, ICE ERO Directive No. 11853.3, <i>Significant Detainee Illness</i> , Dec. 1, 2015, Ex. P, Cho Decl. at Bates No. 2047.	
5.	<p>The SDI Directive describes a “SDI meeting” as “a collaborative effort involving IHSC, ERO Field Operations, and the Office of the Principal Legal Advisor (OPLA).”</p> <p>Evidence: Exhibit A to Pl.’s Jun. 26, 2023 Letter, ICE, ICE ERO Directive No. 11853.3, <i>Significant Detainee Illness</i>, Dec. 1, 2015, Ex. P, Cho Decl., at Bates No. 2047.</p>	Undisputed but immaterial.
6.	<p>The Department of Homeland Security has described ICE’s Joint Intelligence Operations Center (JIOC) as “ICE’s JIOC “a round-the-clock facility that monitors significant event reports from ICE personnel, distributes information as appropriate throughout ICE, and briefs ICE leadership on important past and prospective events.”</p> <p>Evidence: DHS, <i>Privacy Impact Assessment for the Significant Event Notification (SEN) System 2</i> n.4, Oct. 15, 2021, https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice023a-sen-october2021.pdf [https://perma.cc/7EEE-A6JW].</p>	Undisputed but immaterial.
7.	<p>The Department of Homeland Security has described ICE JIOC’s involvement with Significant Event Reports (SIRS). It has stated that JIOC “analyzes the SIRS and sends summaries of them to the appropriate . . . field offices.”</p> <p>Evidence: DHS, <i>Privacy Impact Assessment for the Significant Event Notification (SEN) System 1-2</i>, Oct. 15, 2021, https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice023a-sen-october2021.pdf [https://perma.cc/7EEE-A6JW].</p>	Undisputed but immaterial.
8.	As of April 2, 2022, ICE’s Pandemic Response Requirements required facilities to “[e]valuate all new	Undisputed but immaterial.

	<p>admissions within five days of entering ICE custody to determine whether the detainees fall within . . . the subclasses certified in <i>Fraihat</i>,” to enter data into ICE’s “<i>Fraihat</i> Compliance System platform,” and, when someone at risk for COVID complications tested positive for COVID, complete their documentation “on the latest version of the IHSC <i>Fraihat</i> Compliance System spreadsheet.”</p> <p>Evidence: ICE, ERO COVID-19 Pandemic Response Requirements, at 9–14, 17 (Version 8.0, Apr. 2, 2022), https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v8.pdf [https://perma.cc/3JDD-AQZ8].</p>	
9.	<p>As an ICE employee testified in a 2021 deposition, The “only place where [ICE was] actually capturing [COVID] hospitalization [data] is on the <i>Fraihat</i> [spreadsheets].”</p> <p>Evidence: Pl.’s May 19, 2023 Letter, Excerpts of Deposition of Jennifer Moon, 163:4-10, Ex. T, Cho Decl. at 11.</p>	Undisputed but immaterial.
10.	<p>As of November 2, 2023, “[i]ndividuals at ICE who are subject matter experts on the information requested [in Part 9 of Plaintiff’s FOIA request] believe[d] that the custodians most likely to possess responsive records [we]re the Regional Field Medical Coordinators and the Regional Health Service Administrators within IHSC.” There were nine such people.</p> <p>Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.</p>	Undisputed but immaterial.
11.	<p>As of November 2, 2023, ICE had proposed to search for documents responsive to Part 9 of Plaintiff’s FOIA request by searching IHSC’s Regional Field Medical Coordinators’ and Regional Health Service Administrators’ records using the following search:</p> <p>(bill! OR invoice! OR charges OR payment OR benefits) AND (discharge OR transfer OR custody OR release OR Medicare OR PRUCOL OR “Martin Vargas Arellano”</p>	<p>Disputed. Plaintiff misstates the search and omits the Boolean connectors.</p> <p>Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.</p>

	<p>OR “Teka Gulema” OR “Jose Ibarra Bucio” OR “Johana Medina Leon” OR “Jonathan Alberto Medina Leon”)</p> <p>Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.</p>	
<p>12.</p>	<p>As of November 9, 2023, the parties were in agreement that ICE would search for documents responsive to Part 9 of Plaintiff’s FOIA request by searching IHSC’s Regional Field Medical Coordinators’ and Regional Health Service Administrators’ records using the following search: (bill! OR invoice! OR charges OR payment OR benefits) AND (discharge OR transfer OR custody OR release OR Medicare OR PRUCOL OR “Martin Vargas Arellano” OR “Teka Gulema” OR “Jose Ibarra Bucio” OR “Johana Medina Leon” OR “Jonathan Alberto Medina Leon”)</p> <p>The Court cited this agreement in a December 8, 2023 order, and Plaintiff cited it in a March 1, 2024 status report.</p> <p>Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6; Pl.’s Nov. 9, 2023 Letter, Ex. J, Cho Decl. at 5; ECF No. 62 at 11; ECF No. 70 at 12.</p>	<p>Disputed. Plaintiff misstates the search and omits the Boolean connectors.</p> <p>Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.</p>
<p>13.</p>	<p>ICE has never searched IHSC’s Regional Field Medical Coordinators’ and Regional Health Service Administrators’ records using the following search: (bill! OR invoice! OR charges OR payment OR benefits) AND (discharge OR transfer OR custody OR release OR Medicare OR PRUCOL OR “Martin Vargas Arellano” OR “Teka Gulema” OR “Jose Ibarra Bucio” OR “Johana Medina Leon” OR “Jonathan Alberto Medina Leon”)</p> <p>Evidence: Search Summary, Ex. A, Cho. Decl. at 11.</p>	<p>Disputed.</p> <p>The concurrently filed Declaration of Fernando Pineiro explains ICE’s search for records responsive to Part 9 of the Request and why ICE is unable to conduct searches without having specific names to search for. <i>See</i> Pineiro Decl., ¶¶ 75-81</p>

Dated: March 19, 2025

Respectfully submitted,

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